

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**UNITED STATES OF AMERICA** :

**v.** :

**DANIEL MILES**  
**a/k/a DANNY MILES**  
**a/k/a TONY MILLS** :

**CRIMINAL NO. 99 -0045**

**GUILTY PLEA AGREEMENT**

Under Rule 11 of the Federal Rules of Criminal Procedure, the government, the defendant, and the defendant's counsel enter into the following guilty plea agreement. Any reference to the United States or the government in this agreement shall mean the Office of the United States Attorney for the Eastern District of Pennsylvania.

1. The defendant agrees to plead guilty to counts 2 and 3 of this Indictment charging the defendant with carrying a firearm during and in relation to a drug trafficking offense in violation of Title 18, United States Code, Section 924(c) (count 2), and possessing a firearm after having been convicted of a felony, in violation of Title 18 United States Code, Section 922(g)(1) and 924(e), arising from defendant's possession of a firearm on or about December 8, 1998 in Philadelphia, Pennsylvania.

2. The defendant agrees to pay the special victims/witness assessment in the amount of \$200 before the time of sentencing and shall provide a receipt from the Clerk to the government before sentencing as proof of this payment.

3. The defendant agrees to cooperate fully and truthfully with the government as follows:

- a. Defendant agrees to provide truthful, complete and accurate information and testimony. The defendant understands that if the defendant testifies untruthfully in any material way the defendant can be prosecuted for perjury.
- b. Defendant agrees to provide all information concerning the defendant's knowledge of, and participation in, offenses alleged in the indictment or information and any other crimes about which the defendant has knowledge. The defendant further understands and agrees that (i) all information and cooperation provided pursuant to this agreement is on the record; and (ii) all information provided under any prior off-the-record proffer letter shall be on the record as of the date of the defendant's entry of a guilty plea, and may be used by the government for any purpose, including but not limited to its introduction as evidence at sentencing.
- c. Defendant agrees that the defendant will not falsely implicate any person or entity and the defendant will not protect any person or entity through false information or omission.
- d. Defendant agrees to testify truthfully as a witness before any grand jury, hearing, or trial when called upon to do so by the government.
- e. Defendant agrees to be reasonably available for any interviews as

the government may require.

- f. Defendant agrees to provide all documents or other items under the defendant's control or which may come under the defendant's control which may pertain to any crime.
- g. Defendant understands that the defendant's cooperation shall be provided to any federal or other law enforcement agency as requested by the government.
- h. To enable the Court to have the benefit of all relevant sentencing information, the defendant waives any rights to a prompt sentencing, and will join any request by the government to postpone sentencing until after the defendant's cooperation is complete.
- i. Defendant agrees and understands that this agreement requires that the defendant's cooperation may continue even after the time that the defendant is sentenced. Failure to continue to cooperate after sentence is imposed shall be grounds for the government to void this agreement.
- j. Defendant understands that it is a condition and obligation of this cooperation agreement that the defendant not commit any additional crimes after the date of this agreement.
- k. Defendant agrees that if the government determines that the defendant has not provided full and truthful cooperation, or has not

provided full and truthful information about the defendant's assets, income and financial status, or has committed any federal, state or local crime between the date of this agreement and the defendant's sentencing, or has otherwise violated any other provision of this agreement, the agreement may be voided by the government and the defendant shall be subject to prosecution for any federal crime of which the government has knowledge including, but not limited to, perjury, obstruction of justice, and the substantive offenses arising from this investigation, including but not limited to charges dismissed as part of this plea agreement. This prosecution may be based on any information provided by the defendant during the course of the defendant's cooperation, and this information may be used as evidence against the defendant. Moreover, the defendant's previously entered guilty pleas will stand and cannot be withdrawn by the defendant.

4. Defendant agrees that, upon request by the government, the defendant will voluntarily submit to a polygraph examination to be conducted by a polygraph examiner of the government's choice. In the event that the defendant is called upon by the government to submit to a polygraph examination and the defendant's performance in the examination suggests a conscious intent to deceive, mislead or lie, the defendant will be afforded an opportunity to review and explain the deceptive responses to the government. If the totality of the circumstances convinces the government that the defendant's statement is not complete and

truthful, the defendant will be so informed and any and all obligations imposed on the government by the agreement may be rendered null and void, at the election of the government. The decision will be in the sole discretion of the government. If the defendant refuses to take a polygraph examination after being requested to do so by the government, this agreement may be rendered null and void, at the election of the government.

5. Defendant waives any claim under the Hyde Amendment, 18 U.S.C. § 3006A, for attorney's fees and other litigation expenses arising out of the investigation or prosecution of this matter.

6. If the government in its sole discretion determines that the defendant has fulfilled all of his/her obligations of cooperation as set forth above, at the time of sentencing, the government will:

- a. At the time of sentencing, move to dismiss Count 1 of the Indictment as to this defendant.
- b. Make the nature and extent of the defendant's cooperation known to the Court.
- c. Move to allow the Court to depart from the Sentencing Guidelines pursuant to Sentencing Guideline § 5K1.1 and to impose a sentence below any mandatory minimum term of imprisonment pursuant to 18 U.S.C. § 3553(e), if the government, in its sole discretion, determines that the defendant has provided complete and substantial assistance in the investigation or prosecution of

another person who has committed an offense, including testifying at any trial or proceeding as required. The defendant understands and agrees that: (1) the government will exercise its sole discretion regarding whether and how to investigate any information provided by the defendant; (2) as of the date of this agreement no determination has been made as to the defendant's eligibility for either a Section 5K1.1 or Section 3553(e) motion; and (3) the government may refuse to file a Section 5K1.1 or Section 3553(e) motion if this plea agreement is breached in any way including the commission of a crime after the date of this agreement.

Finally, the defendant understands and agrees that the filing of such motion will not obligate the government to recommend a downward departure from the sentencing guidelines or the mandatory minimum term of imprisonment.

- d. Make whatever sentencing recommendation as to imprisonment, fines, forfeiture, restitution and other matters which the government deems appropriate.
- e. Comment on the evidence and circumstances of the case; bring to the Court's attention all facts relevant to sentencing including evidence relating to dismissed counts, if any, and to the character and any criminal conduct of the defendant; address the Court regarding the nature and seriousness of the offense; respond

factually to questions raised by the Court; correct factual inaccuracies in the presentence report or sentencing record; and rebut any statement of facts made by or on behalf of the defendant. at sentencing.

7. Nothing in this agreement shall limit the government in its comments in, and responses to, any post-sentencing matters.

8. The defendant understands, agrees and has had explained to the defendant by the defendant's counsel that the Court may impose the following statutory maximum and mandatory minimum sentences: Count 2, 5 years imprisonment to be served consecutively to any other term of imprisonment, a \$250,000 fine, up to 3 years of supervised release, and a \$100 special assessment; Count 3, up to life imprisonment, a 15 year mandatory minimum term of imprisonment, a \$250,000 fine, up to 5 years of supervised release, and a \$100 special assessment.

The defendant further understands that supervised release may be revoked if its terms and conditions are violated. When supervised release is revoked, the original term of imprisonment may be increased by 5 years in the case of Class A felonies, which is the applicable classification for the offense the defendant committed as charged in Count 3, and up to 3 years in the case of Class D felonies, which is the applicable classification for the offense the defendant committed as charged in Count 2. Thus, a violation of supervised release increases the possible period of incarceration and makes it possible that the defendant will have to serve the original sentence, plus a substantial additional period, without credit for time already spent on supervised release.

9. The defendant may not withdraw the defendant's plea because the Court declines to follow any recommendation, motion or stipulation by the parties to this agreement. No one has promised or guaranteed to the defendant what sentence the Court will impose.

10. Pursuant to § 6B1.4 of the Sentencing Guidelines, the parties enter into the following stipulations under the Sentencing Guidelines Manual effective November 1, 1998. It is understood and agreed that: (1) the parties are free to argue the applicability of any other provision of the Sentencing Guidelines, including offense conduct, offense characteristics, criminal history, adjustments and departures; (2) these stipulations are not binding upon either the Probation Department or the Court; and (3) the Court may make factual and legal determinations that differ from these stipulations and that may result in an increase or decrease in the Sentencing Guidelines range and the sentence that may be imposed:

a. On December 8, 1998 at about 8 p.m., DANIEL MILES a/k/a TONY MILLS was sitting in the driver's seat of a car owned by his girlfriend, Jan Walker, pouring clear packets with an off-white chunky substance into his right hand from a pill bottle held in his left hand. Police Officer Walker at that time grabbed the bottle and 25 clear plastic packets containing crack from MILES' hands and removed MILES from the car. Police Officer Reynolds recovered a clear plastic baggie containing three large chunks of crack from MILES' inside jacket pocket. Walker recovered \$271 in currency from MILES. Reynolds also searched the car incident to arrest and recovered a Lorcin .380 handgun, serial number 119422, loaded with seven live rounds of ammunition, under the driver's seat. MILES knowingly possessed the firearm at the time immediately prior to arrest.

b. The parties agree and stipulate that the substance possessed by MILES at the time of his arrest was (1) cocaine base (2) "crack" as defined in Guideline Section 2D1.1, Note D, and (3) weighed approximately 29 grams.

c. The defendant has been convicted of at least the following offenses:

<u>Court No.</u>	<u>Charge</u>	<u>Sentence</u>	<u>Sentence date</u>
CP8202-1151	Burglary	Probation 2 yrs.	4/14/82

CP8410-1293	Attempted Burglary	Max. 2 yrs.	10/22/85
CP8502-0706	Criminal Trespass	Max. 2 yrs.	10/22/85
CP8710-0830	Burglary	Max. 4 yrs.	1/22/88
CP8709-2039	Criminal Trespass	Max. 2 yrs.	10/22/87

d. The defendant's 2 burglary and 1 attempted burglary convictions are "violent felonies" within the meaning of 18 U.S.C. § 924(e)(2)(B) and qualify him as an "armed career criminal" subject to the 15 year minimum mandatory to life imprisonment sentencing enhancements under 18 U.S.C. § 924(e) and U.S.S.G. § 4B1.4.

e. The defendant carried a firearm during and in relation to a drug trafficking offense, that is, possession with intent to distribute "crack."

f. The defendant used or possessed a firearm in connection with a controlled substance offense, and defendant's base offense level is 34, under U.S.S.G. § 4B1.4(b)(3)(A).

g. The defendant's criminal history category is VI, because the defendant used or possessed a firearm in connection with a controlled substance offense, possession with intent to distribute 29 grams of crack cocaine in violation of 21 U.S.C. § 841(a), under U.S.S.G. § 4B1.4(c)(2).

h. The parties agree and stipulate that, as of the date of this agreement, the defendant has demonstrated acceptance of responsibility for the defendant's offense making the defendant eligible for a 2-level downward adjustment under Guideline Section 3E1.1(a).

i. The parties agree and stipulate that, as of the date of this agreement, the defendant has assisted authorities in the prosecution of the defendant's own misconduct by timely notifying the government of the defendant's intent to plead guilty, making the defendant eligible for an additional 1-level downward adjustment under Guideline Section 3E1.1(b).

j. The parties agree and stipulate that deducting 3 levels from the defendant's offense level results in a total offense level of 31, which, with a criminal history category VI, results in a guideline range of imprisonment of 188-235 months. The parties stipulate that 60 months should be added to the term of any sentence imposed within this guideline range, based on the mandatory consecutive sentence to be imposed under 18 U.S.C. § 924(c).

k. The defendant stipulates to the forfeiture of the firearm and cash named in the Notice of Forfeiture contained in the indictment. The defendant further

stipulates to the confiscation and disposal of the firearm named in the indictment at the time of sentencing, pursuant to 18 U.S.C. § 3665. The defendant further abandons the firearm to the federal government, and has as part of this agreement has executed the attached abandonment form.

11. The defendant's rights under this agreement shall in no way be dependent upon or affected by the outcome of any case in which the defendant may testify.

12. The defendant is satisfied with the legal representation provided by the defendant's lawyer; the defendant and this lawyer have fully discussed this plea agreement; and the defendant is agreeing to plead guilty because the defendant admits that the defendant is guilty.

13. It is agreed that no additional promises, agreements or conditions have been entered into other than those set forth in this document, and none will be entered into unless in writing and signed by all parties.

**Respectfully submitted,**

**MICHAEL R. STILES**  
**United States Attorney**

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**DANIEL MILES**  
**Defendant**

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**RONALD H. LEVINE**  
**Chief, Criminal Division**  
**Assistant United States Attorney**

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**WILLY LEE NATTIEL, JR.**

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**RICHARD A. LLORET**

**Counsel for Defendant**

**Assistant United States Attorney**

**Date: February 1999**